



NATIONAL SECURITY AGENCY
FORT GEORGE G. MEADE, MARYLAND 20755-6000

5 March 2018

The Honorable George L. Russell III
Federal District Court Judge
District of Maryland
101 West Lombard Street
Baltimore, MD 21201

Re: United States v. NGHIA HOANG PHO
Criminal NO. GLR-17-631

Dear Judge Russell:

Thank you for the opportunity to offer input on behalf of the National Security Agency (NSA) regarding sentencing related to the above captioned matter. I am the Director of the NSA, an intelligence agency within the Department of Defense. I have held this position since April 2, 2014. In addition to serving as the Director of the NSA, I serve as the Chief, Central Security Service, and as the Commander, U.S. Cyber Command. As the Director of the NSA, I am responsible for planning, organizing, directing, and managing all NSA-assigned missions and resources. By specific charge of the President and the Director of National Intelligence, I am ultimately responsible for protecting NSA activities and intelligence sources and methods.

Mr. Pho retained classified information outside of properly secured spaces and by doing so caused very significant and long-lasting harm to the NSA, and consequently to the national security of the United States. While criminal conduct involving matters of national security may come in different forms and some of the harms may not be immediately apparent, the retention of classified information is no less damaging to the national security of our country and our ability to protect and defend the Nation against our adversaries. Mr. Pho's illegal conduct violated the fundamental principle that classified information must be protected and maintained in properly secured spaces at all times.

The welfare of the United States, its citizens, and its allies depends upon the ability to obtain and utilize reliable, actionable intelligence from across the globe. Fundamental to this ability is the crucial need to protect our vital secrets, including those classified secrets that detail our unique capabilities and methods used to collect that intelligence. The protection of classified information is an essential responsibility of all those working within the Intelligence Community, as the exposure of the United States' classified information outside of secure spaces may result in the destruction of intelligence-gathering efforts used to protect this nation. Mr. Pho, who voluntarily assumed this responsibility, ignored his oath to his country and the NSA by taking classified information outside of secure spaces, thereby placing that information in significant jeopardy. His exposure of classified programs and information by retaining them at his residence and on personal electronic devices resulted in articulable harm to intelligence-gathering initiatives used by NSA to succeed with our mission.

The NSA is charged to acquire communications of foreign entities (signals intelligence) whose activities may pose a threat to the national security interests of the United States and its

allies. Signals intelligence is one of the most important sources of intelligence for determining the intent of our adversaries and for early detection of activities that may evolve into a threat. Signals intelligence is critical for our decision makers when deciding how best to protect us. The NSA is the most prolific source of predictive, actionable and preventive intelligence which, around the clock, provides decisive information to policymakers, diplomats and military commanders charged with defending American interests worldwide. In many cases it provides real-time, to near-real-time insight to complex, evolving threat environments like terrorist actions, kidnappings, missile launches and military engagements—closing critical gaps of uncertainty and allowing for better informed actions, which saves lives.

Every day of the year, around the world the women and men of the NSA, some operating in harm's way, dedicate their public service to gathering intelligence that is essential to the preservation of our way of life. When our ability to acquire and sustain access to this intelligence is put at risk, so too is our national security at risk.

Acquiring signals intelligence is an extraordinarily challenging undertaking. Communications options used by foreign intelligence adversaries are enormously varied and complex, and function in a volatile environment. The successful acquisition of signals intelligence requires a mastery of complex signal processing, physics, encryption, foreign languages and deep target knowledge. Our abilities to acquire signals intelligence are among the most closely guarded secrets of the United States government.

Mr. Pho's conduct in improperly and unlawfully retaining national defense information, which included highly classified information, outside of secure space had significant negative impacts on the NSA mission, the NSA workforce, and the Intelligence Community as a whole. By taking highly classified material outside of the controlled space of NSA, Mr. Pho placed at risk some of NSA's most sophisticated, hard to achieve and important techniques of collecting from sophisticated targets of the NSA, including collection that is crucial to decision makers when answering some of the Nation's highest-priority questions. The particular techniques used to obtain signal intelligence are often the most highly sensitive national defense information we protect. The type of collection techniques put at risk by Mr. Pho's conduct are especially valuable because they enable NSA to respond to changes in the communications environment that would otherwise block our insight. Techniques of the kind Mr. Pho was entrusted to protect, yet removed from secure space, are force multipliers, allowing for intelligence collection in a multitude of environments around the globe and spanning a wide range of national security topics. Compromise of one technique can place many opportunities for intelligence collection and national security insights at risk.

By removing such highly classified materials outside of secure space, Mr. Pho subjected those materials to compromise. It is a fundamental mandate in the Intelligence Community that classified material must be handled and stored in very specific and controlled ways. If classified material is not handled or stored according to strict rules, then the government cannot be certain that it remains secret. Once the government loses positive control over classified material, the government must often treat the material as compromised and take remedial actions as dictated by the particular circumstances. Depending on the type and volume of compromised classified material, such reactions can be costly, time consuming and cause a shift in or abandonment of programs. In this case, the fact that such a tremendous volume of highly classified, sophisticated collection tools was removed from secure space and left unprotected, especially in digital form

on devices connected to the Internet, left the NSA with no choice but to abandon certain important initiatives, at great economic and operational cost.

In addition, NSA was faced with the crucial and arduous task of accounting for all of the exposed classified materials, including TOP SECRET information, the unauthorized disclosure of which, by definition, reasonably could be expected to cause exceptionally grave damage to the national security. Accounting for all of the exposed classified material was necessary so that NSA could attempt to assess the damage that resulted from the classified material being stored in non-secure space. These efforts were tremendously expensive and diverted critical resources away from NSA's intelligence-gathering mission, including the development of new and innovative ways to conduct signals intelligence.

The detrimental impacts of Mr. Pho's actions are also felt in other less tangible ways, including a loss of trust among colleagues and essential partners who count on NSA to conduct its mission. NSA trusted Mr. Pho, a software developer who worked on critical intelligence-gathering tools, to protect those tools and our nation's security. Mr. Pho betrayed that trust. Trust is an essential component of all of the work that is done by NSA employees. It is affirmed by our sworn oath to uphold and defend the Constitution, sealed by our signed obligations to protect national defense information and reinforced by extensive, recurring training, awareness campaigns and security measures. There is no doubt about what is or is not permitted in our stewardship of that critical information.

That trust extends to a circle with other U.S. intelligence agencies, who share valuable intelligence insights; military personnel, who share details of their operational plans; and international partners, who share their sovereign secrets with us, all for common objectives. When a once trusted colleague of one agency, such as Mr. Pho, violates their obligation to protect national defense information, it can fracture that circle of trust. Through the unlawful actions of a single individual, precious resources at one moment focused on a common security outcome must now shift to contemplate the risk and implications of disclosure. It's like interrupting a team of surgeons in the middle of an operation to determine if the sterility of a tool used in the procedure had been compromised. Future decisions about sharing will be weighted with consideration of the breach of trust by one party. That trust is essential to enable the extensive collaboration and detailed work needed to acquire and sustain access and maintain strong partnerships against the global challenges we face.

The demands we face on behalf of the American people will not pause while we deal with this breach of trust. We have and we will continue to redouble our efforts to recover as best we can from Mr. Pho's illegal actions. Affirmation by this court of the cost to the women and men who have dedicated their lives to public service and who have maintained trusted stewardship of national defense information will send them a message of confidence and respect.

Thank you for the opportunity to offer this input.



MICHAEL S. ROGERS
Admiral, U.S. Navy
Director, NSA